

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

HERBERT HENDERSON,
Plaintiff,
v.
DR. HAILIE,
Defendant.

No. 2:21-cv-0790 WBS KJN P

ORDER

On February 21, 2023, defendants filed a motion for summary judgment pursuant to Federal Rule of Civil Procedure 56. Plaintiff did not oppose the motion.

Local Rule 230(l) provides in part: “Failure of the responding party to file written opposition or to file a statement of no opposition may be deemed a waiver of any opposition to the granting of the motion” Id. On October 20, 2022, and February 21, 2023, plaintiff was advised of the requirements for filing an opposition to a motion and that failure to oppose such a motion may be deemed a waiver of opposition to the motion. See Rand v. Rowland, 154 F.3d 952, 957 (9th Cir. 1998) (en banc), and Klinge v. Eikenberry, 849 F.2d 409, 411-12 (9th Cir. 1988).

Local Rule 110 provides that failure to comply with the Local Rules “may be grounds for imposition of any and all sanctions authorized by statute or Rule or within the inherent power of

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1 the Court.” Id. In the order filed October 20, 2022, plaintiff was also advised that failure to
2 comply with the Local Rules may result in a recommendation that the action be dismissed.


3 Finally, Rule 41(b) of the Federal Rules of Civil Procedure provides:

4 **Involuntary Dismissal; Effect.** If the plaintiff fails to prosecute or
5 to comply with these rules or a court order, a defendant may move to
6 dismiss the action or any claim against it. Unless the dismissal order
7 states otherwise, a dismissal under this subdivision (b) and any
dismissal not under this rule--except one for lack of jurisdiction,
improper venue, or failure to join a party under Rule 19--operates as
an adjudication on the merits.

8 Id.

9 Good cause appearing, IT IS HEREBY ORDERED that, within thirty days from the date
10 of this order, plaintiff shall file an opposition, if any, to the motion for summary judgment.
11 Failure to file an opposition will be deemed as consent to have the: (a) action dismissed for lack
12 of prosecution; and (b) action dismissed based on plaintiff’s failure to comply with these rules
13 and a court order. Such failure shall result in a recommendation that this action be dismissed
14 pursuant to Federal Rule of Civil Procedure 41(b).

15 Dated: April 3, 2023

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17 KENDALL J. NEWMAN
18 UNITED STATES MAGISTRATE JUDGE

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